

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JENNIFER CORNELL, <i>et al.</i>,	:	
	:	
Plaintiffs,	:	Case No. 1:20-cv-0973
	:	
v.	:	Chief Judge Algenon L. Marbley
	:	
BUTLER COUNTY PROBATE COURT, <i>et al.</i>,	:	Chief Magistrate Judge
	:	Karen L. Litkovitz
	:	
Defendants.	:	

ORDER

On July 5, 2022, this case was transferred to the docket of the undersigned from the Honorable Judge Black of the Western Division. (ECF No. 20). Two Motions to Dismiss are pending and now come before this Court for adjudication. (ECF Nos. 16 & 17).

Briefly, this is a discrimination and retaliation case brought by two former employees of the Butler County Probate Court. (*See generally* ECF No. 15). The Second Amended Complaint states causes of action under the Rehabilitation Act and the Family and Medical Leave Act against Butler County, the Butler County Board of County Commissioners, the Honorable Judge Randy Rogers (in his official and individual capacities), and Court Administrator Heather Cady. (*Id.*). These same Defendants filed Motions to Dismiss the First Amended Complaint (ECF Nos. 6 & 7), which Judge Black ruled upon in an Opinion & Order dated October 18, 2021. (ECF No. 13). The Court incorporates by reference the factual background from that Opinion.


Judge Black granted in its entirety the Motion to Dismiss filed by the Butler County Defendants. (*Id.* at 17). He granted in part the Motion to Dismiss filed by Defendants Cady and Judge Rogers, ordering Counts 3 and 5 (for FMLA interference and retaliation) dismissed while allowing Plaintiffs to amend Counts 1 and 6 (for Rehabilitation Act discrimination and retaliation).

(*Id.*). Plaintiffs were granted leave to file a Second Amended Complaint “only to provide further factual allegations in support of Counts 1 and Count 6 as against Defendant Judge Rogers in his official capacity.” (*Id.* at 18 (emphasis original)).

On October 25, 2021, Plaintiffs filed their Second Amended Complaint (ECF No. 15), which closely tracks the First Amended Complaint. It restates all causes of action against all Defendants, with one new allegation in Counts 1 and 6: “Defendants receive federal funding.” (*Id.* ¶¶ 51, 88). Defendants again move to dismiss under Federal Rules of Civil Procedure 12(b)(1) and (b)(6), raising the same arguments as in their prior Motions. The Butler County Defendants move to dismiss all claims against them (ECF No. 16), and Defendants Cady and Judge Rogers move to dismiss all claims “excluding the Rehabilitation Act claims alleged against Judge Rogers in his official capacity” (*i.e.*, the amended Counts 1 and 6). (ECF No. 17 at 10). In other words, Defendants are seeking re-dismissal of the claims on which they prevailed before Judge Black but are not challenging the two claims which Judge Black permitted Plaintiffs to amend. Plaintiffs filed short responses to the two Motions, reincorporating their prior briefs “for purposes of preserving their opposition,” advancing “no additional argument,” and conceding they “do not . . . expect that the Court will issue a different decision.” (ECF Nos. 18 & 19).

As such, this Court has no grounds to deviate from Judge Black’s prior ruling, which carefully considered and resolved all arguments at issue. Defendants’ Motions to Dismiss (ECF Nos. 16 & 17) therefore are **GRANTED** for the reasons stated in the Opinion of October 18, 2021. All claims against Butler County, the Butler County Board of County Commissioners, Administrator Cady, and Judge Rogers (in his *individual* capacity) are **DISMISSED**. The Butler County Defendants and Defendant Cady are **TERMINATED** from the case. Plaintiffs’ case may proceed only against Defendant Judge Rogers (in his *official* capacity) on Counts 1 and 6.

IT IS SO ORDERED.



ALGENON L. MARBLEY
CHIEF UNITED STATES DISTRICT JUDGE

DATED: July 8, 2022